



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 1, 1998

Ms. Bertha Bailey Whatley  
General Counsel  
Forth Worth Independent School District  
100 N. University Drive  
Fort Worth, Texas 76107

OR98-2078

Dear Ms. Whatley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117822.

The Fort Worth Independent School District (the "district") received a request for the background driving record checks of all individuals driving school buses for the district. You claim that the requested information is excepted from disclosure under section 552.101 in conjunction with new provisions of the Transportation Code. We have considered the exception you claim and have reviewed the submitted representative sample of documents.<sup>1</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.130 of the Open Records Act governs the release and use of information obtained from motor vehicle records. Section 552.130 provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

The Seventy-fifth Legislature added chapter 730 to the Transportation Code.<sup>2</sup> The stated purpose of chapter 730 of the Transportation Code is "to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law." Transp. Code § 730.002. Section 730.004 prohibits the disclosure of personal information about any person obtained by an agency in connection with a motor vehicle record.

In this instance, we believe that the district is an "agency," as defined by section 730.003(1) of the Transportation Code, that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(4) (defining "motor vehicle record"). In its definition of "motor vehicle record," section 730.003(4) of the Transportation Code, however, expressly excludes records that pertain to a motor carrier. The term "motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state. Transp. Code § 643.001. We believe that under these circumstances, persons who drive school buses for the district are "motor carriers," and thus are outside the ambit of section 552.130. *See* Gov't Code § 552.130(b). Therefore, we conclude that the district may not withhold the records at issue under sections 552.101 or 552.130 of the Government Code in conjunction with section 730.004 of the Transportation Code.

We note, however, that some of the submitted information may be confidential under section 552.117 of the Government Code. Section 552.117(1) excepts from public disclosure information relating to the home address, home telephone number, and social security number of a current or former government employee or official, as well as information revealing whether that individual has family members. Section 552.117(1) requires you to withhold this information for an official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information if the employee had not made a request for confidentiality under section 552.024 at the time this request for the information at issue was made. Whether a particular piece of information is

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<sup>2</sup>Act of May 29, 1997, 75<sup>th</sup> Leg., R.S., ch. 1187, § 1, 1997 Tex. Gen. Laws 4575.

public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 117822

Enclosures: Submitted documents

cc: Mr. Randy Westerman  
Producer/Photographer  
Channel 11 News  
5233 Bridge Street  
Fort Worth, Texas 76103  
(w/o enclosures)